

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 FEDERAL TRADE COMMISSION,

11 Plaintiff,

12 v.

13 AMAZON.COM, INC.,

14 Defendant.

No. 2:14-CV-01038-JCC

**DECLARATION OF HARRY H.
SCHNEIDER, JR., IN SUPPORT OF
AMAZON.COM, INC.'S RESPONSE
TO THE FTC'S MOTION TO SEAL**

NOTED ON MOTION CALENDAR:

Friday, February 12, 2016

I, Harry H. Schneider, Jr., declare as follows

1. I am an attorney at Perkins Coie LLP and one of the attorneys representing
Amazon.com, Inc. ("Amazon") in this matter. I make this declaration based upon personal
knowledge as to which I am competent to testify.

2. On February 1, I met and conferred with counsel for the FTC regarding the
exhibits the FTC intended to file under seal in support of its Motion for Summary Judgment and
Motion in Limine. During the meeting, the FTC identified one document it intended to file
under seal but otherwise declined to identify specific documents or testimony it would be filing
under seal. Instead, the FTC identified broad categories of documents it would be including in
its filings, such as documents produced by Amazon in this case (more than half a million pages
of documents) and transcripts of the depositions of 18 Amazon witnesses. As a result, Amazon
could not consider re-designating or propose redacted versions of any of those documents or

DECLARATION OF HARRY H. SCHNEIDER, JR.
(No. 2:14-CV-01038-JCC) – 1

129867899

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 testimony in advance of the FTC's filings the next day.

2 3. With respect to the single document the FTC identified (produced by a third
3 party), Amazon promptly reviewed and agreed that it could be filed publicly without redaction.

4 4. The FTC also informed Amazon that it would be filing reports of Amazon's
5 expert witnesses. Amazon promptly re-reviewed the reports and informed the FTC that only
6 one expert report need be filed under seal. In doing so, Amazon reminded the FTC that it had
7 never designated as confidential two of those reports and had already filed publicly two others.

8 5. The FTC filed its Motion for Summary Judgment and Motion in Limine the
9 following day. The FTC filed 80 exhibits under seal and redacted one document. Amazon now
10 has had the opportunity to review those exhibits to determine which exhibits or portions of
11 exhibits it believes should remain under seal.

12 6. Amazon has carefully applied redactions to the following exhibits to minimize the
13 amount of information maintained under seal: Exhibits 11, 12, 15, 17, 30, 52, 53, 54, 61, 62,
14 92, 112, 121, 123, 141, 145, 154, 202, 337, 339, 340, 500, 502, 503, 504, 505, 508, 509, 510,
15 and 511. The redacted versions of these exhibits and documents are attached as **Exhibit A**.

16 7. Amazon has reviewed and substantially reduced the redactions applied by the
17 FTC to the following documents: the FTC's Motion for Summary Judgment (Dkt. 109), the
18 Declaration of Julie Beth Miller (Dkt. 110), the Declaration of Elizabeth Kwok (Dkt. 111), and
19 the FTC's Motion in Limine to Exclude Expert Testimony (Dkt. 112). The revised redacted
20 versions of these and documents are attached as **Exhibit B**.

21 8. Amazon has de-designated the following exhibits and agrees these exhibits do not
22 need to be maintained under seal: Exhibits 14, 28, 31, 44, 130, 160, 176, 179, 180, 186, 209,
23 218, 302, 305, 308, 350, 354, 355, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485,
24 486, 487, 501, 506, 507, 520, and 526. (Note that Amazon received third-party Exhibits 474 to
25 487 in redacted form. Amazon has not made any further redactions to those exhibits.) A copy
26 of these unredacted exhibits is attached as **Exhibit C**.

DECLARATION OF HARRY H. SCHNEIDER, JR.
(No. 2:14-CV-01038-JCC) – 2

129867899

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 **I declare under penalty of perjury that the foregoing is true and correct.**

2 EXECUTED at Seattle, Washington, this 10th day of February, 2016.

3

4

5 *s/Harry H. Schneider, Jr.*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

 Harry H. Schneider, Jr.

DECLARATION OF HARRY H. SCHNEIDER, JR.
(No. 2:14-CV-01038-JCC) – 3

129867899

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

CERTIFICATE OF SERVICE

I certify that on February 10, 2016, I electronically filed the foregoing Declaration of Harry H. Schneider, Jr., In Support of Amazon's Response to the FTC's Motion to Seal with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to attorneys of record.

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 10th day of February, 2016.

s/ Harry H. Schneider, Jr.

DECLARATION OF HARRY H. SCHNEIDER, JR.
(No. 2:14-CV-01038-JCC) - 4

129867899

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000